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OFFICE OF CONSUMER AFFAIRS AND BUSINESS REGULATION

**DEPARTMENT OF
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VIA EMAIL AND REGULAR MAIL

MEMORANDUM

TO: All Parties and Commenters to D.T.E. 97-116

FROM: Paula Foley, Hearing Officer

RE: Call for Comments on FCC's Order on Remand

DATE: May 23, 2001

In Complaint of MCI WorldCom, Inc. against New England Telephone and Telegraph Company d/b/a Bell Atlantic-Massachusetts for breach of interconnection terms entered into under Sections 251 and 252 of the Telecommunications Act of 1996, D.T.E. 97-116-E at 15 (2000), the Department of Telecommunications and Energy ("Department") determined that it would preserve the status quo as created by the Department's decision in D.T.E. 97-116-C regarding payment of reciprocal compensation for termination of traffic bound to Internet service providers ("ISPs"),⁽¹⁾ until the Federal Communications Commission ("FCC") acted on remand.

On April 27, 2001, the FCC released Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC Docket No. 96-98, Intercarrier Compensation for ISP-bound Traffic, CC Docket No. 99-68, Order on Remand and Report and Order, FCC 01-131 (released April 27, 2001) ("Order on Remand"). In its Order on Remand, the FCC reiterated that traffic delivered to ISPs is interstate access traffic, specifically "information access," and thus not subject to reciprocal compensation. Id. at ¶¶ 42-47. However, rather than immediately eliminate compensation for such traffic, the FCC established a transitional cost recovery mechanism consisting of a series of rate caps over a period of thirty-

six months following the effective date of the Order. Id. at ¶¶ 77-88.

The Department now seeks comments from interested persons on the effect of the FCC's Order on Remand on the issue of reciprocal compensation for ISP-bound traffic in Massachusetts. Initial Comments must be filed with the Secretary of the Department by 5:00 p.m. on **Wednesday, June 13, 2001**. Reply Comments must be filed by 5:00 p.m. on **Wednesday, June 27, 2001**. Please send two (2) copies of the comments to Paula Foley, Hearing Officer. In addition, one (1) copy must be sent to each of the following: Mike Isenberg, Director, Telecommunications Division; April Mulqueen, Assistant Director, Telecommunications Division; Bill Agee, Assistant General Counsel; and Joan Foster Evans, Hearing Officer.

If you have any questions, please contact Paula Foley at (617) 305-3608.

1. In D.T.E. 97-116-C at 19-31 (1999), the Department determined that traffic to ISPs constitutes "non-local interstate" traffic, rather than "local" traffic subject to reciprocal compensation pursuant to approved interconnection agreements. The Department approved a 2:1 ratio of terminating to originating traffic, the excess of which Verizon may consider to be terminating to an ISP and, thus, exclude from reciprocal compensation payments unless the submitting CLEC provides evidence that its non-ISP-bound traffic exceeds the 2:1 ratio. Id. at 28 n.31.

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